

1 Favian Valencia, WSBA #43802
2 Sunlight Law, PLLC
3 402 E. Yakima Ave., Ste. 730
4 Yakima, WA 98902
5 Telephone: (509)388-0231
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10 **UNITED STATES DISTRICT COURT**
11 **EASTERN DISTRICT OF WASHINGTON**
12 **AT YAKIMA**

12 JOSE VERA) Cause No. 1:17-cv-3005
13)
14 Plaintiff,) COMPLAINT FOR PERSONAL
15) INJURIES
16 vs.)
17)
18 U.S. DEPARTMENT OF INTERIOR)
19 BUREAU OF INDIAN AFFAIRS,)
20 and THE UNITED STATES OF)
21 AMERICA,)
22 Defendants.)
23)
24)
25)
26)
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22 Plaintiff Jose Vera (hereinafter Mr. Vera) alleges as follows:

23 **I. Jurisdiction and Venue**

24 1.1 Plaintiff at all times material hereto, was a resident of Yakima County.
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1.2 Defendant U.S. Department of Interior Bureau of Indian Affairs (hereinafter “BIA”) is an agency of the United State of America (hereinafter “USA”) and, at all times material, was conducting its business in Yakima County, Washington.

1.3 This case is brought pursuant to the Federal Tort Claims Act (hereinafter “FTCA”), 28 U.S.C. § 2671 *et seq.*

1.4 The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1332, 1346(a)(2), 2201, and 2202.

1.5 This Court has exclusive jurisdiction over this claim against ICE and USA pursuant to 28 U.S.C. § 2671 because Plaintiff has exhausted his administrative remedies by filing an FTCA claim, which was denied on July 11, 2016.

1.6 Venue is proper in Federal Eastern District of Washington pursuant to 28 U.S.C. §§ 1391(b)(2) and 1402(b) because a substantial part of the events and omissions giving rise to Plaintiff’s claims occurred in this district.

II. Facts

2.1 On January 27, 2014, Mr. Vera was driving a logging truck northbound on Bureau of Internal Affairs Road 140 (hereinafter “BIA 140”). As Mr. Vera came upon a sharp curve, he did not have enough time to slow down and his vehicle slid and drove off the road and down a 60 foot embankment.

2.2 BIA 140 did not have any signs to warn of the curve or to indicate what the speed limit was around the curve. The road also, did not have any side rails to prevent vehicles from driving off the road. The road design is unreasonably dangerous.

1 2.3 Mr. Vera's vehicle crashed front-first into the bottom of the canyon and he
2 suffered severe personal injuries. Mr. Vera's passenger passed away immediately
3 after the crash.

4 2.4 Defendant was responsible for the design, construction, maintenance and
5 repair, signage and safety of the roadways in the portion of the road that Mr. Vera
6 crashed. Defendants were further responsible for taking all necessary precautions
7 to ensure that such roadway was kept in a condition that was safe for drivers
8 traveling in that location. Defendant failed to comply with these duties.

9 2.5 Defendant was aware of the unreasonably dangerous nature of the road by
10 virtue of other accidents and incidents prior to accident at issue herein involving
11 vehicles driving off the road at the above-mentioned location.

12 2.6 As a direct and proximate result of the negligence, recklessness, and
13 wrongful conduct of each of the defendants, Mr. Vera suffered permanent and
14 severe physical, cognitive, neurological, emotional and other injuries and damages
15 as a result of the accident.

16 **IV. First Cause of Action – Negligence and Failure to Warn**

17 4.1 Plaintiff re-alleges and incorporates by reference the allegations contained in
18 paragraphs 1.1-2.6.

19 4.2 Defendant had a duty to exercise reasonable care in the decision-making,
20 design, construction, maintenance, repair, marking, and signing of BIA 140 to
21 ensure it was maintained in a condition that is reasonably safe for drivers traveling
22 at that location. Defendant had a duty to comply with the requirements of the
23 Manual on Uniform Traffic Control Devices, and the version with Washington
24 modifications, and other provisions of Washington law pertaining to the
25 construction, maintenance, repair, marking and signing of roadways, including
26 those requiring guardrails, barricades and barriers.

1 4.3 At the time of the accident, Defendant failed to properly construct, maintain,
2 repair, mark, and erect appropriate barriers and signage on South 116th Street and
3 at the dead-end in a manner that was reasonably safe for use by motor vehicles and
4 their drivers.

5 4.4 Defendant's negligence, recklessness and other wrongful conduct was a
6 proximate cause of the accident and of plaintiff's injuries and damages.

7 **V. Second Cause of Action – Failure to Warn**

8 5.1 Plaintiff re-alleges and incorporates by reference the allegations contained in
9 paragraphs 1.1-4.4.

10 5.2 Defendant had a duty to install and maintain proper warning signs, barriers,
11 guardrails and/or barricades where there are deceptive or dangerous conditions in
12 or on the roadway. Defendant had a duty to ensure that the signs, barriers,
13 guardrails, and/or barricades properly warned drivers of the sharp curve and
14 embankment.

15 5.3 Defendant had knowledge that the curve was deceptive and dangerous for
16 motor vehicles and their drivers using the roadway at that location.

17 5.4 Defendant's failure to warn motor vehicle drivers of the deceptive and/or
18 dangerous conditions present at the curve on BIA 140 was the direct and proximate
19 cause of the accident and Plaintiff's injuries and damages.

20 **V. Prayer for Relief**

21 5.1 Mr. Vera is entitled to recover judgment against the defendant for the
22 reasonable value of his past and future health care expenses, for his past and future
23 lost earnings and / or lost earnings capacity, and for his pain, suffering, disability
24 and loss of enjoyment of life, past present and future, all in amounts which will be
25 proven at the time of trial herein.

26 5.2 Mr. Vera prays for judgment against the Defendant as follows:

1 5.2.1 For his past and future economic and non - economic damages in
2 amounts to be proven at the time of trial herein;

3 5.2.2 For Plaintiff's costs and disbursement incurred herein, along with
4 attorney fees; and

5 5.2.3 For such other and further relief as the Court deems just and equitable.

6 DATED this 6th day of January, 2017.
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8 Sunlight Law, PLLC
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10 By: Favian Valencia
11 Favian Valencia, WSBA #43802
12 Attorney for Plaintiff
13 402 E. Yakima Ave, Ste 730
14 Yakima WA 98901
15 (509)388-0231
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